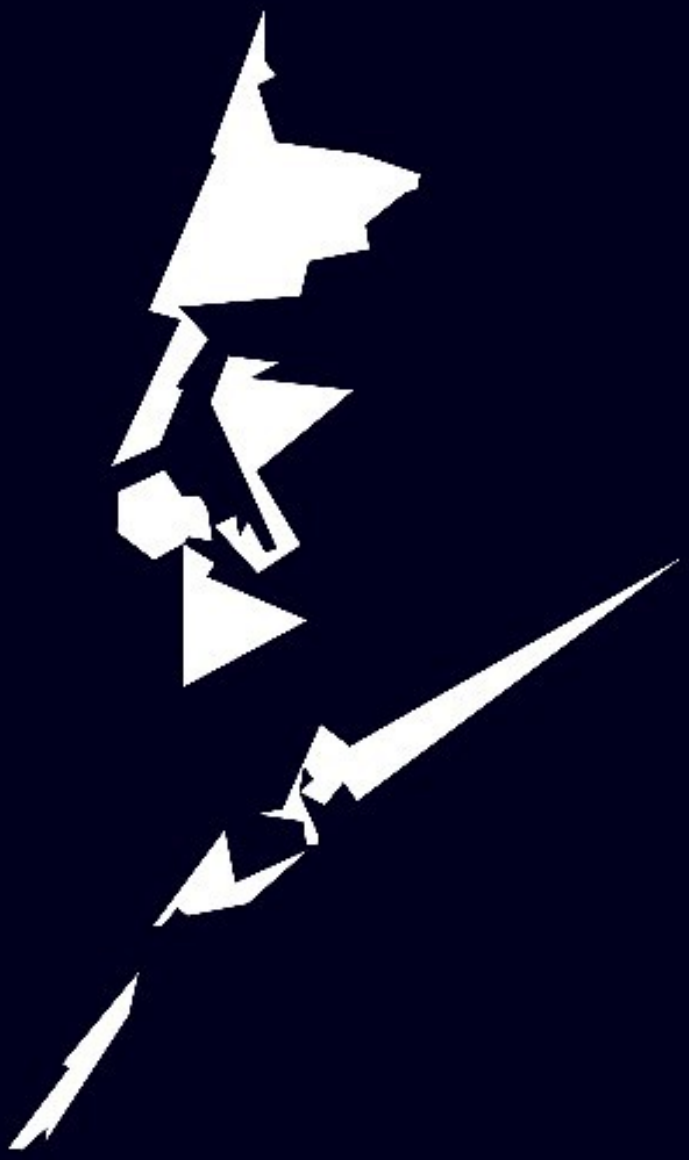
ERNEST BELFORT BAX

The Legal Subjection of Men



Volume Three

VOLUME THREE

The Legal Subjection of Men
Ernest Belfort Bax

"Perhaps in that day of a future society, my protest may be unearthed by some enterprising archaeological inquirer, and used as evidence that the question was already burning at the end of the nineteenth century." — E.B. Bax on Injustice to Men

Series Introduction

Ernest Belfort Bax (1854 – 1926) holds a special place in the history of men's rights advocacy, being the first to mount a sustained public campaign soliciting compassion for men and boys, while denouncing gynocentric chivalry and cultural misandry that was common in his time. As the first major spokesman on these issues Bax is often considered the father of the first wave of the men's rights movement.

The movement inaugurated by Bax was firstly a literary effort seeking to raise awareness of unreasonable discrimination against men; in divorce settlements, onerous financial responsibilities, military service, domestic violence bias, criminal sentencing disparities, misandric cultural roles and expectations, and so forth. While there were numerous men's rights advocates appearing from Bax's time forward, his efforts were published in mainstream publications spanning a period of thirty years, making his voice not only the first, but one of the most enduring.

Bax wrote on a great many topics, including religion, socialism, history and philosophy. This three-part series gathers from his corpus those writings in which he discussed men's human rights, along with the gynocentric culture he believed responsible for undermining those rights. In these writings Bax asserted that feminism was a central part of "anti-man crusades" appearing in his day, which were in turn responsible for the expansion of anti-male laws during the same period.

Bax wrote many articles in the *New Age* and elsewhere about English laws partial to women and against men, and of women's privileged position under the law. In this legal environment he believed women's suffrage would unfairly tip the balance of power to women. In 1896 he co-wrote The Legal Subjection of Men as a response to John Stuart Mill's 1869 essay The Subjection of Women. In 1913 he published The Fraud of Feminism, detailing feminism's adverse effects on males and society.

The sheer volume of his writings about men's human rights show that the topic exercised Bax's mind throughout his life, rivalling his interest in politics and philosophy but surprisingly little mentioned by biographers; perhaps the result of a widespread censorship of non-feminist narratives reported by Bax. With the resurgence of interest in men's human rights, biographers might now be willing to update this part of Bax's life knowing they have a receptive audience for whom censorship is less likely to be accepted.

Editor's Preface

The third and final volume of this series *The Legal Subjection of Men* was co-authored by E.B. Bax and an unnamed Irish barrister and first published in 1896, and republished in 1908. Bax credits his co-author with the larger share of the work, although Bax's hand is present in most sections.

When first published the book created quite a stir, and a Mr. Herbert Burrows, shareholder in the publishing company, resigned his shares as a result of the Press' decision to publish the title.[1] In reply to Burrows' ongoing efforts to denounce the work, Bax wrote;

> "The task of Feminism is to paint a privileged sex in the colours of an oppressed one. Naturally this difficult task can only be accomplished by a game of "bluff" of the most impudent kind and by the wholesale "hocussing" of public opinion by falsehoods, and at the same time by the most strenuous attempts to prevent the light of fact being let in. Of the latter there has been evidence only recently within the SDP in the demand of Mr. Herbert Burrows at the Conference that the pamphlet published by the Twentieth Century Press, *The Legal Subjection of Men* – in which the present state of the law and its administration as between the sexes is given – should be suppressed, and also in the representations made to the Editor from a "Women's Committee" of the body that I should be muzzled and any statement of mine adverse to Feminism be excluded from the party organs."[2]

The book is a forerunner to more recent work by men's human rights activists of highlighting cultural and legal discrimination against men. In fact as one reads through this text it becomes clear that many of the legal discriminations against men remain in place today in areas such as child custody, divorce, alimony, harsher sentencing of males for the same crimes, and so on.

The ultimate aim of the work was to demonstrate that complaints by feminists of legal discrimination against women pale in comparison to the greater number of legal discriminations aimed at men and boys. Indeed, Bax would go further and state, "Down to the minutest detail of Law and administration, civil and criminal, women are iniquitously privileged at the expense of men."

It was his hope that all who read the book with an open mind would reject the farce of "the downtrodden woman and the brute man," and pay some attention to the human rights violations being experienced by men.

While this work is accessible on the internet it is currently only available in scanned or OCR-converted format that is difficult to read and riddled with conversion errors. To our knowledge this is the first time the volume has been faithfully transcribed in text form including original formatting and paragraph breaks.

[1] *Reynolds's Newspaper* - Sunday 28 February 1897
[2] E. Belfort Bax, *Women's Privileges and "Rights"*, Social Democrat, Vol.13 no.9, September 1909, pp.385-391.

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Preface To New Edition

I HAVE been usually credited with being the chief author of the following brochure. Such, however, is not the case. “The Legal Subjection of Men” is in great part the work of an Irish barrister and LL.D. of Dublin, who died a few years ago. That portions here and there are from my pen is true, but for the bulk of the pamphlet I am not directly responsible, as any expert in literary style will probably detect. I mention the circumstance in writing the few words of preface for the new edition asked of me by the publishers, not with a view to any disclaimer, but simply in the interests of literary truth and accuracy. For though, as stated, only myself directly responsible for short sections, I none the less, in the main, heartily endorse the whole.

The present edition has been carefully corrected and the Law brought up to date, though the illustrative cases necessarily remain as in the original edition. There have been few agitations in history which have been characterised by such hard lying and shameless perversion of fact as the so-called “Woman’s Movement.” Unfortunately, continually-reiterated assertions in direct contravention with the real state of the case have only too well succeeded. The public mind has been bull-dozed into assuming the reverse of what actually obtains to represent the truth, and has sympathised and given effect to its sympathies on the basis of these false representations. I need scarcely say that the advocates of “Woman’s Rights” and female suffrage, whose whole credit is based upon the tissue of falsehood it is the mission of this little work to expose, have done their best to boycott and ignore the exposure. All honour then to the Twentieth Century Press for originally publishing, and to the New Age Press for having the courage to risk offending certain sections of “advanced” opinion by reprinting, the following unvarnished statement of Law and fact.

E. Belfort Bax.

Preface

IT seemed to the authors of the following pamphlet that the time had fairly come for confronting the false assumptions underlying the conventional whining cant of the Feminist advocate with a plain and unvarnished statement of Law and fact.

The “Woman’s rights” (?) agitator has succeeded by a system of sheer impudent, brazen, “bluff,” alternately of the whimpering and the shrieking order, in inducing a credulous public to believe that in some mysterious way the female sex is groaning under the weight of the tyranny of him whom they are pleased to term “man the brute.” The facts show these individuals to be right in one point and only one, namely, that sex-injustice and sex-inequality exist; for it so happens that the facts further show the said injustice and inequality to exist *wholly* and *solely* in favour of women as against men.

In short, they disclose a state of things in which, *down to the minutest detail of law and administration, civil and criminal, women are iniquitously privileged at the expense of men.* As it is, many an unhappy male victim of modern sex-prerogative would doubtless be only delighted to be allowed to partake of a little of the oppression under which he is told unfortunate Woman is groaning, but from any share in which he sees himself to his detriment excluded. Mr. Hardcastle found his guest’s new-fashioned shyness bore a strong resemblance to old-fashioned impudence, and our male victim of pro-feminist laws and tribunals may well he excused for failing to distinguish between this new-fashioned oppression and old-fashioned domination.

In conclusion, we would advise the Feminist guild ignore our pamphlet with its tale of infamy. It is their only chance of gulling their sentimental dupes any longer. Let the latter once know of our sketch, and their game is up. For those who have read it, and retain the vestiges of open mind on the subject, the maundering farce of “down-trodden woman and the brute man” will be played out.

1. The Legend

JOHN STUART MILL is dead! but his eloquent wail of the subjection of women is never let die—it rings in our ears every day. It is solemn, it is pathetic; it overflows with the chivalric sentiment which Mill professes to repudiate as out of date, like the clanship and hospitality of the wandering Arab, but which nevertheless, is so strongly developed in the average male. It has become the gospel of women's pretended wrongs, and has caused the ingenuous youth of Oxford and Cambridge to blush for their fellow males. The only objection that the lawyers of the present year of grace can raise to it is that it is really the reverse of legal truth.

But even apart from the late John Stuart Mill, for considerably more than a generation past—indeed, one may say, more or less from the beginning of the present century—mankind, in this and some other countries, has had sedulously instilled into its mind the notion that the female sex is labouring under a grievous oppression at the hands of the tyrant male. In the present day this opinion has acquired the character of an axiom which few people think of disputing. Every occurrence bearing upon the social or economical relation of the sexes is judged in the light of this fixed idea. The press in general voices the view of public opinion with the result that the assumption in question is continually being reiterated. The moral of the injustice exercised by man upon woman is insisted upon with all the devices of rhetoric, and every chance occurrence is eagerly seized upon and pressed into the service to point the moral and adorn the tale of the favourite theory.

No one, as far as we are aware, has seriously set him or herself to proving the theory to have any foundation at all. Starting with the assumption, the state of things it implies has been deplored, people have tried to explain it, to suggest remedies for it, but tested it has never been. We all know the story of King Charles II. and the Royal Society; how the Merry Monarch, shortly after the institution of that learned body, propounded a problem for its solution, to wit, why a dead fish weighed more than a live one? Many were the explanations suggested, till at length one bold man proposed that they should come back to first principles, and have a dead fish and a live fish respectively placed in the scales before them. The proposition was received with horror, one member alleging that to doubt the fact amounted to nothing less than high treason. After much difficulty, however, the bold man got his way; the matter was put to the test, when, to the utter discomfiture of the loyal members, the alleged fact which they were seeking to explain evinced itself as but a figment of the Royal fancy.

We propose in the following paragraphs to consider whether the matter does not stand similarly only very much "more so" as regards the conventional notion of the legal and social disabilities of women. In the present paper we shall merely confine ourselves to the legal aspects of the question.

It will not, we think, take us long to convince ourselves that the allegations on this subject which the present generation, at least, has had dinned into its ears from all sides since its infancy, are even on a less favourable footing as regards accuracy. Charles II. thought the dead fish weighed heavier than the live one. The event only proved that they weighed the same—not that the live one weighed heavier than the dead one. Our modern women's righters bewail the alleged legal oppression of women by men. The facts show not that neither sex is oppressed as such, but, on the contrary, they disclose a legalised oppression of men by women.

2. The Facts

We will in the first place give a short statement of the law of husband and wife, with a view to discovering on which side of the equation does the weight of privilege lie, regarding the marriage contract as it at present exists in this country.

Let us clearly understand what are the exact limitations, and what the extraordinary extent of these sex privileges conferred by law. Rich men are, on account of their wealth, in a more enviable position towards any litigant in the Law Courts than are poor men. The privilege here is of wealth. But rich women are enormously better off in the matter of legal privilege than are rich men, and poor women are similarly privileged by law as against men of their own class.

THE LETTER OF THE LAW.

This privilege conferred on women arises in an extraordinary number of cases, for the express letter of the law discriminates in the *sharpest possible manner* between men and women in the matter of legal right and duty, of civil law advantage and criminal law exemption. But the letter of the law is supplemented by the bias of tribunals and by the bias of the press, and of public opinion, of which opinion, after all, the action of the tribunals is but the reflection. Who interprets, enacts. The unfair incidence of the law, bad enough by itself, is rendered crushing by the made-up minds of judge and jury.

BIAS OF TRIBUNALS.

The settled bias of the tribunals in favour of the woman complainant, actuating magistrates, judge and jury, operates in two ways. In the first place a woman has only to complain against a man, and the tribunal is already convinced of the justice of her claim. The tribunal is only impartial if the complaint is by one woman against another. In the next place, no adequate repression of crime or other injury by a woman against a man is even attempted.

BIAS OF PRESS AND PUBLIC OPINION.

This tendency of the tribunals is confirmed and rendered irresistible by the action of the press and public opinion. All injuries to a woman are chronicled with flaring headlines. Injuries by women to men are laughed at, or worse still, passed over in silence.

The origin of this bias is a subject of deep interest, but not one capable of being discussed within brief limits. It is, of course, to be found in the history of England for some centuries past –practically since the Reformation– in so far as difference in the intensity of the sentiment differentiates England from other European peoples. It is to be found in the history of Europe and the race for many centuries before the period of the great European upheaval of the 16th century. It is enough for the present to note that the pro-feminist prejudice exists and is transmuted into positive rules of law, and legal administration by the action of public opinion and the press, Parliament, judges and juries, and crystallised into statutory enactment by an active pro-feminist propaganda of sex-conscious women's righters.

If anyone thinks the latter factor unimportant, it may be sufficient to remind him of the statutory innovation 4 involving the most flagrant injustice, inasmuch as flagrant inequality, viz.:–

1. Summary Court for Separation. Open to women alone, except in the case of drunkenness (cf. Licensing Act, 1902).

2. Action for Slander. Open to women alone.

3. Duty of Husband to maintain his wife–notwithstanding her adultery.–This last a triumph of feminine privileges enacted in 1895!

It is impossible in any distribution of the main outlines of sex-privilege to avoid occasionally overlapping. One arrangement of the topics will be convenient. Let us consider women's privileges under the head of Matrimonial Law, and the Civil Law generally, and, further, of the Criminal Law.

These privileges arise indirectly from the action of the legislature, but mainly from that of the Courts, and consist of: first, the deliberate introduction of new rules of law and procedure, and, secondly, the retention of some old-world privileges of women, logical enough when women were dependent, but under modern conditions engines of tyranny against men.

3. Matrimonial Privileges of Women

1. BREACH OF PROMISE OF MARRIAGE.

The law of George III., punishing by damages –usually vindictive damages– violation of breach of promise of marriage. The women's privilege to commit perjury plays a great part in this process. A woman swears a man promised to marry her. Judge and jury hold this statement false, and mark the result. No one suggests that she should be indicted for perjury. On the contrary, the grateful male litigant, happy to escape, settles £3,000 on her (Gore v. Lord Sudley, 10 June, 1896).

Furthermore, by custom of the tribunals creating the Common Law, this action is confined in its benefits to woman. A man suing in a like case is laughed out of Court. This may or may not be a just privilege conferred on women–that of breaking their promise free of legal penalty, but it is obviously a privilege conferred by the practice of the Courts on women as such. The rules of law invalidating contracts obtained by fraud, duress, or undue influence, have no effect as against a woman inducing a man, by subtle device or threats of scandal, to marry her. An experienced woman of 30 can entrap a boy of 22 into such a promise; the Court takes no notice of the invalidity from point of view of fair play. But a man suing a woman of any age would be laughed out of Court.

2. PRIVILEGE TO DEFRAUD UNDER COVER OF PROMISE OF MARRIAGE.

This is, of course, a minor privilege compared with that of exacting damages for breach of promise. But it is a real privilege, nevertheless. A man gives valuable property –jewellery, furniture, or money– to a woman under an agreement to marry, fraudulently entered into on her part, inasmuch as she has no power to carry out her promise, being already married or preferring someone else. The man, in practice (whatever theory may be) is not assisted to recover the property, and the magistrate rebukes him for "unmanly" behaviour! Contrast the other side. A woman makes a loan to a man whom she knows to he married. He receives a sentence of *five years penal servitude.*

3. MAINTENANCE.

As against her husband, the law confers on a woman who has married him the unilateral privilege of maintenance. The earlier law made this privilege dependent on her obedience, cohabitation with her husband, and her observance of outwardly decent behaviour. The present law has set her free from all these restraints. Since 1857 the Secular Court, which then assumed jurisdiction in matrimonial matters, has given up all attempt to enforce obedience, but the most violent methods, including imprisonment and sequestration of the property of the husband are employed to enforce her claim to maintenance.

By a recent Statute (the Act of 1884) the process of imprisonment to make a wife obey an order to return to her husband was abolished. By the famous decision in the Jackson Case the husband was prohibited from himself using force to compel her to return. But the deserted wife by magisterial order can get her deserting husband sent to gaol. And neither legislature nor the Courts, which took away her duties of obedience and cohabitation, ever dreamt of depriving her of her privilege of being maintained by the man whom she can flout and insult

with impunity. As a successful lady litigant (May, 1896) remarked to her husband, “There is no law which compels me to obey or honour you, but there is a law that you must keep me.” This woman tersely sums up the position.

In the case of a man of property the Courts will expropriate him for the benefit of his wife. In the case of a wage-earner the Courts from police magistrates to Supreme Court will decree him to be her earning slave, bound to work for her or go to prison. A wife, no matter if rolling in wealth, is not obliged to contribute a penny to her husband’s support, even if he be incapacitated from work through disease or accident. The sole exception which the law makes in derision is that if he be actually in such destitution as to go to the workhouse, then the wealthy wife is obliged to pay, not to her husband, but the local authorities, the cost of his maintenance at the exiguous scale usual in such cases.

Even a wife who, against her husband’s wish, leaves his house after assaulting and insulting him can obtain against him an order for restitution of conjugal rights. This is a mere preliminary to form a basis for a claim for sequestration of his property for her maintenance. The Act of 1884 forbids the Court to order imprisonment for refusal to obey an order of restitution of conjugal rights, but enables such a refusal to be made a ground for confiscation of the husband’s property in favour of the wife. No reciprocity here. Imprisonment before 1884 affected both husband and wife. Sequestration of property, the husband alone. Now imprisonment is abolished for the wife, and so the wife goes scot free, while the husband is as much bound as ever in person and in property.

This iniquitous statutory rule is made use of by women who have no wish whatever to return to their husbands. After overbearing ill-usage and desertion of the husband for years, the wife applies to the Court for an order for restitution, well knowing that her unfortunate victim will not obey the order. Then the robbery of his property is completed by a second order in Court.

But no disobedience to a like order on her part enables her property to be confiscated, or herself to be sent to prison.

4. DISPOSITION OF PROPERTY FREE FROM CONTROL OF HUSBAND.

By the Married Women’s Property Acts a woman has complete control over all property acquired or inherited by her in any way, free from any claim on the part of her husband. With cynical injustice she is left in possession of all her old claims on her husband’s property, and the latest charter of female privilege, the Statute of 1895, gives her claims regardless even of her adultery.

This matter deserves more attention than it usually receives. Let us consider the topics in order:–

(a) Source of Women’s Property.

The piteous tales of artistic working women, of wives robbed by their worthless husbands, from the Mrs. Morton of fact to the Miss Trotwood of fiction, formed the foundation of the claim for a revision of the law. Liberty for women to retain their own earnings. Obvious equity here!

But the bulk of women's property, in 99 out of every 100 cases, is not earned by them at all. It arises from gift or inheritance from parents, relatives, or even the despised husband. Whenever there is any earning in the matter it is notoriously earning by some mere man or other. Nevertheless, under the operation of the law, property is steadily being concentrated into women's hands. "Once Stridhan always Stridhan."

(b) Control through Life.

The wife has absolute and unfettered control over her own property, man-earned though it be, and her person. This is the new style. But the gaoler and the broad arrow make the husband, her earning slave, to be insulted and jeered with impunity. This is the old style with a difference. "All yours is mine, and all mine's my own." Mere man is not worth considering when the material aggrandizement of women is concerned !

(c) Control at death.

By the Married Women's Property Acts, a woman has complete power of leaving her property away from her husband, by will, even though in his prosperity he gave it to her. The husband can be prevented from doing so, by the wife's suing him for maintenance, when his property, or as much of it as judges think fit, is settled on her, and can no longer be disposed of by his will. Conveyancers aver that the steady tendency for a woman to leave property acquired from some man always to a woman. A silent revolution in succession is being accomplished. But the man is left under his old burdens of supporting his wife.

(d) Bankrupting Husband for Money Lent.

A wife is privileged to recover judgment against, and bankrupt her husband for any money she may have lent him, and this privilege is no dead letter.

A husband does not lend, but gives money to his wife. If he were to attempt by legal documents to turn it into a loan, he would discover once again that what is sauce for the goose, is by no means sauce for the gander. There is no case on record of a husband daring to sue his wife for a loan.

5. DISPOSITION OF PROPERTY FREE FROM CONTROL OF CREDITORS.

Not merely as against the husband, but against her creditors, the married woman is in a position of enviable privilege. A married woman, even when separated from her husband, and released from all duties towards him or her children, retains her privilege of having her property exempt from seizure for debt.

Technicalities would be tedious, but the following is the practical working of the law. In legal phraseology, if a married woman enters into a contract, and if (an important if) there is no restraint against anticipation in her settlement, then her property, or some of it, may be attached. As to the restraint against anticipating income, this clause, introduced by Lord Chancellor Thurlow to protect an interesting relative of his against her husband, is practically to be found in every settlement, being now useful against the creditor, although no longer needed against the husband.

6. VICARIOUS RESPONSIBILITY OF HUSBAND TOWARDS THIRD PERSONS FOR HIS WIFE'S MISCONDUCT.

The husband is liable, and his wife is not, for all the civil wrongs (torts) she may commit. He has no control over her, but serves as her whipping-boy. This, though she publicly defames and insults him in every way, and has deserted him.

As Sir Frank Lockwood put it, one has the deep consolation of knowing that if Mrs. Jackson utters slanders Mr. Jackson can be sued.

Under the older English law, when the wife was *"sous la verge de son marrye"* (the canon law *sub virga viri*), the rule was reasonable enough. Now, however, it is only an illustration of the pro-feminist bias of the Courts. Every moth-eaten scrap of privilege, which is in favour of the woman, they retain. All privileges of the husband, no matter how firmly established, they deny as having ever existed. Look at the astounding declaration of Lord Halsbury in the Jackson case, that the husband never had the right in English law to restrain his wife ! ! !

7. IMPUNITY FOR CRIMES COMMITTED IN HUSBAND'S PRESENCE.

THE "DOCTRINE OF COERCION "

Again, a pious archæology animates the judges when the woman is to be benefited. Notwithstanding the revolutionary changes in the law, another old-world privilege of the "woman under the rod" is reserved for the dominating female of today. If her husband is present when she is committing a crime, a married woman is presumed by an intelligent administration of justice to have acted under his coercion. This is sometimes amusing, when, as often happens, the woman is the instigator of the crime.

This precious privilege is nominally confined to cases of minor importance, and in special is supposed not to affect murder. In practice it affects all crimes, and is no dead letter, as illustrative cases can show.

8. FACILITIES FOR DIVORCE.

No man can obtain a divorce except by a terribly expensive process in the High Court at a minimum charge of forty pounds. This means a denial of justice to the vast bulk of the male population. Any woman, by the asking for it, can get a summary separation and confiscation of her husband's property, and an order for her maintenance out of his earnings from the nearest police court. Recent Statutes confer this privilege. This process, which costs only a few shillings, the husband has to pay for. But divorce or no divorce, the wife's property, where-ever acquired, cannot he touched.

There is no question here of interfering with her "earnings" though she be an opera singer with £40,000 a year. Similarly with her capitalised property, which, though man-acquired, as usual, cannot be touched. If her property, as well as her husband's, has been handed over to the trustees of her marriage settlement the Court has some power to make orders as to the income of that property, but in practice uses it only for the benefit of the children. No matter how flagrant her conduct the wildest dream never suggested that the wife's "earnings" (as artist, opera singer, or what not) no matter how exorbitant, should ever be touched for the benefit even of her children.

That a portion should be sequestrated for the maintenance of the husband–even though a husband is incapacitated by disease or accident–of course would be a barbarous suggestion, hardly to be discussed outside Bedlam.

But precisely analogous orders as to the hard-earned and miserably stinted wages of the male earner are made with scandalous levity in the Police Court every day. A working man, earning eighteen or twenty shillings a week, is calmly ordered to provide twelve shillings a week for life for the keep of a clamorous and malignant shrew. The denial to the working man of the same facilities for summary separation, through the police court, granted to every brawling wife who chooses to ask for it, simply means that the man is in a state of legal subjection to his wife.

The wife has but to scream and appeal to the nearest policeman, and prison, separation, custody of children, and maintenance, are decreed as matters of course. A woman can habitually repudiate her duties, neglect her children, pawn her husband's and children's clothes, waylay her husband at his work, and disgrace him before his friends, procure his dismissal, assault him, and there is no remedy open to the working man. To tell him that he can appeal to the Divorce Court at a cost of forty pounds, is a piece of savage and scornful irony. He might as well be told that he can, if he has the money, promote a private Act of Parliament, at the cost of some thousand pounds. If goaded by intolerable misery, he so far forgets himself as to strike his torturer, he is sent to gaol, with his condemnation headed A cowardly brute. The special facilities for women to obtain divorce, separation confiscation of the husband's property, do not end with the provision of a cheap and expeditious Court for women alone.

If the woman elects to go to the Divorce Division of the High Court, the path is made similarly smooth for her. Her unfortunate husband, who may afterwards be held to be quite guiltless of the lying charges brought against him, is ordered to find money for her solicitors, and has to *pay in advance!!* He must also pay her alimony *pendente lite*.

Then when he is dragged to Court by a heartless and vindictive woman, he finds the scales still more heavily weighted against him. The rules might be formulated somewhat in this way:–

> 1. Every woman's statement complaining of her husband is assumed to be true until he conclusively proves it to be false. The *onus probandi* is on him and the difficulty he has to face is that of proving a negative.
>
> 2. The slightest harshness or even carelessness of speech or behaviour, no matter under what provocation (the records of years being searched to find one) is absolutely final proof of "cruelty" if committed by the husband. No amount of insolence and brutality–short of actual attempt to maim–is cruelty in a wife. Anything she does is a pardonable exhibition of feminine temper.
>
> 3. The husband and his witnesses are prosecuted for perjury on the slightest inaccuracy being discerned in their narration of facts. *Deliberate perjury is passed over if committed by the wife, her paramour, or her witnesses.*

4. No charge, no matter of what infamous crime, falsely made by a wife against a husband, is a ground for his refusing to take her back. If he should refuse the Court confiscates for her benefit as such of his property or earnings as they think fit.

One result of these instructive rules of practice is to be found in the number of undefended divorce suits. It is a common saying of the legal profession that multitudes of husbands allow judgments to go against them by default, as they are quite conscious that no man not of absolutely angelic character –unless he be himself a lawyer– has any chances before a prejudiced pro-feminist judge and jury.

9. ENDOWMENT OF ADULTERESS OUT OF DAMAGES.

Here we come upon a marvellous specimen of judicial legislation, wherein Parliament has not been troubled. In case of a husband succeeding under the Act of 1895 he will have difficulty in future in getting a divorce from his wife by reason of adultery. He is entitled to damages from the co-respondent for the injury to him, done in breaking up his home, and exposing him to mental suffering and material loss. The damages are supposed to he paid to the husband on this basis–that they were in compensation for his loss. They are still assessed on this basis, but at the end of the nineteenth century we find the judges creating a legal fiction. Influenced by the wave of feminist sentimentality, the judges have actually seized on these damages as a fund for endowing the adulteress.

The way this insidious device was introduced was as follows:– It not unfrequently happened that a husband assented of his own free will to the damages, which in law were his own property, being settled on the children of the marriage. Sometimes he included his late wife in that dedication of the fund. This was generous of him, as the woman had obviously forfeited her claims on him. Now, however, the judge, without consulting parliament, has deprived the injured husband of the merit of generosity. Without the husband's consent, in fact, notwithstanding his opposition, the judge will hand over the damages, which in strict law are the husband's, to such trustees as they think fit, and transform the fund into an endowment for the adulteress who has prudently selected a rich man as co-respondent.

To understand the iniquity of this proceeding, let us take the opposite case. In some American States the wife's trade union has procured the passing of a law that enables a wife to sue for damages for her husband's seduction. What would be thought of the American Courts if they seized on the damages so secured and settled them as a provision on the delinquent husband? or (to add a grotesque completeness to the parallel) settle them on the husband and his children by his fair seducer?

Yet a similar piece of monstrous injustice–to men, though not to women–is the law of England today.

Our pro-feminist judges are presumably indifferent to the fact that the subsidy of the adulteress in this way can have but one result, namely, to *"encourager les autres."*

10. CUSTODY OF CHILDREN.

It has always in England been laid down as a fundamental law based on public policy, that the custody of children and their education is a duty incumbent on the father. It is said to be

so fundamental that he is not permitted to waive his exercise of the right by pre-nuptial contract. (See the Agar v. Ellis Case.)

This rule of the Common Law of England is of course in harmony with the policy of all Europe and Christendom, as well as with the historic conditions of the European social organisation, if not with the primal instincts of the race.

Nevertheless, fundamental and necessary as the rule may be, the pro-feminist magistrates and judges of England are bent apparently on ignoring it with a light heart. They have not merely retained the old rule that the custody of infants of tender years remains with the mother until the child attains the age of seven. But they go much further than that. As a matter of course, and without considering in the least the interests of the child, or of society at large, they hand over the custody and education of all the children to the litigant wife, whenever she establishes –an easy thing to do– a flimsy and often farcical case of technical "cruelty."

The victim husband has the privilege of maintaining the children as well as herself out of his property or earnings, and has the added consolation of knowing that they will brought up to detest him.

Even in the extreme case where a deserting wife takes with her the children of the marriage, there is practically no redress for the husband if in narrow circumstances. The police courts will not interfere. The divorce court, as already stated, is expensive to the point of prohibition. In any case the husband has to face a tribunal already prejudiced in favour of the female, and the attendant scandal of a process will probably have no other result than to injure his children and their future prospects in life.

II. IMPUNITY FOR OFFENCES AGAINST HUSBAND.

The wife in England enjoys either absolute immunity or liability to merely nominal punishment for all offences against her husband committed during marriage. Contrast with this the rule as regards offences by the husband towards the wife. Gaol and public obloquy are his portion. This matter will be referred to again in considering the criminal law privileges of women in general (married or unmarried) as regards trial, sentence, remission of punishment, and gaol-treatment. It may here he noted that feminine exemption, as specially regards Matrimonial Law, is established in one of the following ways:– Either by

1. The text of the law expressly, which discriminates between wife's offences and husband's, punishing the latter and leaving unpunished the wife. For instance, in cases of desertion; or by

2. The administrators of the law who have established a rule of practice discriminating in favour of the woman, although nominally the law is the same for both. For instance, in cases of cruelty, perjury, and bigamy; or by the fact that

3. Whenever a pecuniary fine is imposed, nominally on the wife, the husband is the vicarious sufferer. He has to pay. With this preface let us consider the law and practice as regards a wife's offences against the husband, in the order of their frequency.

(a) Impunity for Insolence and Insult.

The most elaborate cruelty in the way of insolence and insult is unpunishable by the law when committed by the wife. The husband remains bound to support his torturer, who may publicly waylay and insult him, harass him at his work, procure his dismissal, libel him by postcards sent to his workshop, or to his club. If he a rich man, he can get some tardy redress in the way of palliation; but he remains liable to divorce and expropriation at his wife's behest. The rod, the cucking school, the indictment as a scold at the assizes were the methods adopted by the Law of England and sanctioned by the Canon Law, until the present century, to repress such outrages. Now the feminine noblesse can torture their slaves with impunity.

If the husband retaliates, the magistrate's order promptly consigns him to gaol and the prisoners' lash.

(b) Impunity for Neglect.

The wife may repudiate every one of her duties, may utterly neglect her household, her children, and her husband. No remedy either in the police court or the divorce court for the husband.

If the husband neglect the wife in this connection– "neglect" is a very elastic word– consequences ensue of which the chief are-

> (1) The prompt police court separation order, and confiscation of property and wages of husband (enforced by imprisonment).
>
> (2) This so-called neglect of the husband enables the wife to commit adultery with impunity, yet still she has her claim to maintenance. (Act of 1895.) Neglect on the part of the wife is no legal offence at all. Neglect on the part of the husband has been construed to mean anything of which the wife likes to complain. For example, an actor who is obliged to remain late at the theatre comes home late. This is held to be "neglect," with the usual penal consequences. What between the upper millstone of "cruelty" and the nether millstone of "neglect" the unfortunate husband can now be condemned alike, if he does something, or if he does nothing–anything the wife chooses to call so being construed as either "cruelty" or "neglect."

(c) Impunity for Libel and Slander of Husband.

No lying charge, no matter how gross, by word or writing is punishable if committed by the wife against the husband. She is free to slander and libel him before servants and strangers, solicitors and pressmen; accuse him of every crime known to the Old Bailey calendar, and write postcards to his club or to his employer and no penal consequences ensue as long as she lives in his house. Her husband cannot leave her without incurring punishment. If the husband, not to say slanders, but speaks disrespectfully to his wife before servants or strangers, she is quite entitled to leave his house at once, and claim the usual separation and confiscation order, and deprive him of the custody of the children whom he is bound to support.

(d) Impunity for Waylaying and Procuring Dismissal.

A vindictive wife who courts publicity and scandal has the average respectable man–unless he be an angel or a lawyer–at her absolute mercy. If he be a man of the middle-classes, she can waylay him at his office and destroy his business connection. She can call at his club and secure his expulsion. If he be a working man she can interview his employer and secure his prompt dismissal. She can render him a laughing-stock to all his acquaintances, and at the same time achieve his financial ruin. The law and its administrators stand idly by. No remedy for the helpless male. The "poor woman" (they are always that) must have been ill-used; there is no such thing as savage vindictiveness and recklessness in the female.

(e) Impunity for Violence and Assault.

If a man under any provocation, no matter how galling –insolence or violence– strikes a woman, he is sent to hard labour, divorced, and his property confiscated, or his earnings hypothecated–and all this through the prompt instrumentality of the police-court. A woman may assault, stab, set fire to her husband, and he has no remedy, except to summon her to the police-court, where, if she be fined, he is compelled to pay the fine, and as likely as not is laughed at. If her crime be revoltingly atrocious, she is perhaps sent to prison–for one-twentieth part of the time awarded to a male offender for a like offence. On her being released, her husband, unless he be a rich man, is bound to take her back, and, rich or poor, support her. The prompt and inexpensive police-court divorce is not for him.

A humane police magistrate actually had to stoop to make terms with a cruel and murderous criminal. A wife strikes a felon blow at her husband, renders him insensible, and he has to be removed to the hospital. His face is badly scarred, six stitches having to be put into the wounds. The magistrate, wishing to prevent murder, binds her over to come up for judgment, if called upon, on condition that she kindly consents to sign a separation deed, permitting her unfortunate husband slave to live apart from her. The slave of course has to support her all the same. (*Morning Advertiser*, 2nd June, 1896. Thames Police Court.)

(f) Impunity for Adultery.

The latest charter of women's privileges–the Act of 1895–enables a woman to commit adultery with Impunity–provided she can allege her husband neglected her. As "neglect" usually means that she drove him to the public-house or to his club by over-bearing violence and insolence, the present law means that if a woman has a fancy for adultery, all she need do is to pick a quarrel with her husband about anything she likes, then she can indulge in desertion and adultery with impunity, and claim the usual divorce and confiscation from a sympathising tribunal.

It is singular that the law on this very offence should be perpetually cited by women's righters as her chief grievance, next to the absence of the Parliamentary franchise–and as the standing illustration of the "cruel inequality and injustice as between the woman and the man" of the English law of divorce. If a woman, we are told, commits adultery, a man can obtain absolute divorce, but if a woman sues she must prove cruelty as well.

Now as to the earlier law, this was the rule, and something could be said to defend it. It is obvious that if a woman commits adultery she may introduce a bastard child to her husband's family, and saddle him with a pecuniary burden and them with an onerous relationship which it is unjust should be borne by them. If a husband has illicit relations, he does not bring home his bastard offspring. But since 1857 the secular court has practically abolished the

discriminations. Let the wife prove illicit relations by the husband, and she has always had her divorce for the asking. The reason is simple. The Courts will hold, to oblige a wife, that anything is cruelty if committed by a husband. It is cruelty to come home late from his club; it is cruelty to spend an evening with friends without her company. It is cruelty to hold her hands if she tries to strike or to bite him.

However, these refinements are no longer necessary to the pro-feminist tribunals of England. The last charter of feminine privilege (the Act of 1895) has set the balance of express law the other way. Now a wife can commit adultery with impunity–if induced by the "neglect" of her husband. No such excuse for the husband.

(g) Impunity for Desertion.

A woman can have her husband arrested and sent to gaol if he leaves her, even though her own violence and cruelty led to his flight. The husband gets no assistance from the law if his wife deserts him.

The method in which this privilege has been worked out was simple enough. It consisted in abolishing all the husband's control over the wife's actions and property, and, on the other hand, retaining all the wife's power of legal compulsion on the husband, with added powers.

These changes have practically come in during the period since 1857, when a secular court for divorce was established. Under the earlier law, prior to, and long after the Reformation, ecclesiastical censure restrained the deserting wife. But the secular common law also lent its aid to the husband. He could prevent her by force from leaving his house, and could bring her back if she had escaped. More, he had an action for "harbouring" against any of her relations or strangers who assisted her in straying away–as late as George III. a husband's action for damages on this ground was successful.

An exception to the general rule, and even this was of doubtful validity, was introduced under Henry VIII. A wife could be assisted to leave her husband's house if she were journeying to the Bishop's Court to seek a separation.

But the latest feminist rulings of the judges have quite swept away such fine distinctions as those of 1857.

> (1) By their fiction of "cruelty"–anything a husband does being "cruelty"–they have enabled any woman who likes to leave on a pretended excuse.
>
> (2) By procuring the passing of an Act (Lord Chancellor Cairns' Act, 1884) the Courts got rid of their theoretical duty of ordering a wife to be imprisoned for refusing to obey an order of restitution of conjugal rights. Nothing in the way of compulsion by restraint of person or property is to be applied to the wife. But by a cynical stroke this Act provides that if a husband refuses to obey, his property is to be confiscated. And, more outrageous than all, the wife's power to procure the arrest and imprisonment of the husband by the magistrate's Court is left untouched.

A case in which the wife of a clergyman caused her husband to be arrested on board a ship going to America, and sentenced to hard labour by alleging his desertion, deserves special notice. True that the clergy-man, having means, could appeal to a higher Court and have the

iniquitous sentence quashed. But the working man would have had to serve his allotted term in the prison cell. And no one has ever suggested that this wife should be punished. (See the case of the Rev. Peter MacDonald Neilson, June, 1894.)

The notorious Jackson case furnished another picture. Here a woman is upheld by the Court of Appeal in deserting her husband and condemning him to life-long celibacy. He has absolutely no remedy against her. If she commits any civil injury against any one, he can be sued. If he should live with any other woman, Mrs. Jackson can get a portion of the property confiscated and settled on herself. She is not obliged to ask for a divorce, she can still keep him bound by limiting her demand to a judicial separation.

The criticisms which some lawyers have made on this decision are wide of the mark. It was quite in harmony with the later current of authority, though in violent conflict with the settled Common Law of last century. Tie the man and let the woman free, is the prevalent judicial theory of today.

Though the judges could obtain the passing of Lord Chancellor Cairns' Act, 1884, freeing the wife from imprisonment for desertion, there has been no suggestion of promoting an Act to enable a man in Mr. Jackson's position to obtain a divorce.

So enamoured have they become with the new doctrine of feminine predominance in the relation of marriage, that the judges of the House of Lords have actually extended to Scotland their theory of tying the man and letting the woman free. For over three centuries the law of Scotland has provided that desertion for four years on the part of either spouse is ground for absolute divorce, with right of second marriage. For all that long period the Act has been found most salutary in effect. Now the judges in the House of Lords, in the year 1894, have practically repealed it. They have refused to grant a Scotch litigant divorce, although his wife has deserted him for over four years, and at the same time abducted his child. They allege, as the ground for this astonishing "new readings" of the law, that the husband did not really want her to return. As this can be alleged in every case in which a husband does not slavishly implore a shrew to come back, the result is that when a vindictive woman wants to prevent the man remarrying, she can successfully resist his claim for divorce. This salutary Act of Scots Parliament has been offered up as a whole burnt offering on the altar of the dominant female.

(h) Impunity to Commit Bigamy.

We now come to a flagrant instance where the law professes to apply impartially to masculine and feminine offenders. But the feminist administrators of the law have created an undisputed feminine privilege. Long terms of penal servitude await the male bigamist. The female is privileged to indulge in this form of deceit and theft with impunity.

For, be it noted, it is almost invariably a desire to obtain economic advantage that impels the woman to this particular crime, the essence of which, of course, is the deceit practised on the innocent party. In the cases where there is no economic motive and where no deceit is practised on the second spouse (to use the convenient terms of the Scottish Law) no punishment is ever inflicted on the woman, and perhaps none is specially required. The possession of the "marriage lines" is sought for as a social advantage, though based on the deception of a public official.

But in striking contrast to this practice, the man who contracts a second, i.e., illegal, alliance, even though he goes through the marriage ceremony solely to please his second partner, and although she is in no way deceived as to his status, may, even though in addition he has been deserted by his first wife, he arrested and sent to prison at the bidding of the woman who deserts him.

This, however, is not the full extent of the privilege. Men who, from passion, or for whatever motive, deceive the second partner, are severely punished. That is to say, a woman already deserting her husband, may entangle a man into an alliance with her which he believes to be honourable and legal: may make him the father of her children, and hamper him with the life-long obligation to support these unhappy offspring: may thus brand her own children with the stamp of illegitimacy, may squander his earnings for years, may finish the tale of her favours by involving him in a suit in the divorce court as a co-respondent, and in a prosecution in the criminal courts as an unwilling witness against his children's mother, and may do all this with absolute freedom from legal penalty. Let a man attempt to improve his financial position, nay, let him, even at a pecuniary loss to himself, exercise the least similar deceit on any woman, and the Criminal Courts descend on him with swift retribution.

The following article in a leading London daily newspaper is instructive:–

> "The sentence of seven years penal servitude passed by the Common Sergeant yesterday upon Charles Baker, who has for many years successfully practised bigamy as a profession, is not one day too long. Mr. Baker is evidently a person of irresistible fascination to ladies, and but for the rare courage of one of his victims, who had him tracked through both hemispheres, he might in time have bigamously married the residue of our unmarried women possessing suitable dowers. Quite another sort of bigamist was the cause of an application to Mr. Lane at the South Western Police Court. This was a young woman, who having married yesterday's applicant, while her first husband was still living, was strangely purged of her offence by Mr. Justice Hawkins after a day's imprisonment, on condition that she returned–not to her legitimate spouse, but to the young man who irregularly succeeded him. This she did, but not for long, as the same young man had to complain yesterday, that she had, in turn, deserted him, for an old gentleman she used to go after before. The applicant, like a sensible young man, seemed able to support this with philosophy, but what did raise his ire was her threat to prosecute him if he did not maintain her, against which he sought–and naturally obtained– protection. The fickle young woman is evidently still unconversant with the rules of the game. Perhaps when she has tried as many husbands as Mr. Baker has married wives, she will know better. Really it is getting time to mete out equal treatment to masculine and feminine offenders."– *Daily Chronicle*, May 21, 1896.

(i) Impunity for False Charges on Oath.

No crime is too abominable to be imputed by a wife, with absolute impunity, against a husband. More precise details need not be given, as recent instances will occur to the public mind of notorious and infamous ill-usage of a husband in this way by a heartless and vindictive woman. But the Public Prosecutor is silent when the false accusation is brought by one of the privileged sex. Prosecutions of women for perjury in a divorce suit are unknown.

And, be it observed, this privilege extends to all female friends or hirelings of the wife. These persons are allowed to accuse, with elaborately-prepared details of corroboration, the husband of the woman litigant of committing adultery with themselves. They are never punished. An obliging maiden sister–to help her married sister to procure divorce and confiscation of property against a troublesome husband–swears that the husband committed adultery with herself, the wife's sister! The judge and jury find this story a concocted lie. The infamous perjurer is not punished–is not even prosecuted. Obliging maid servants every day come forward to allege their own or some other woman's "immoral relations" with the victim husband. No one ever dreams of prosecuting them. It would be waste of time and money–as no jury would convict.

(k) Impunity for Perjured Denials of Guilt.

Women, it is notorious, every day perjure themselves in divorce suits, by denying that they committed adultery when their guilt is manifest. They are never prosecuted. The administrators of the law show by their practice –though not in articulate words– that they hold such perjury a venial fault, if not, indeed, a justifiable means of self-defence in the case of holy, inviolate woman.

This privilege, like the analogous one of bringing lying charges against a husband, extends to the wife's friends and hirelings. Let a husband untruly deny his illicit connection with a woman if his wife is the accuser. The Public Prosecutor intervenes, as a case decided in June, 1896, shows clearly enough, when the male went to penal servitude.

Yet, be it observed, it is only the man's denying with the object of protecting himself against his wife that is punished. If the man he not a husband, but a co- respondent: if he deny the truth with the laudable object of protecting a wife (who happens to be an adulteress–but that does not strip her of her privilege) then his perjury is pardonable and chivalrous. The co-respondent is safe under the shadow of the wife. In fact he must lie. And this brings us to the next head of privilege.

(l) Impunity for Treacherous Confession of Guilt.

Here we have a most striking rule–No woman is supposed to be a cowardly traitor if she turns "wife's evidence" against a man, and truly alleges that he had illicit relations with herself. She is assisting justice, promoting morality, showing true repentance by open confession, and aiding in the women's trade union object of keeping down man, the slave! Her treachery to her accomplice is condoned.

But a man who would dare to turn "husband's evidence" against a wife, cannot be found within the four seas. The reason stares one in the face. Such a witness would not he welcomed as a servant of justice, and a repentant sinner. No! he would be esteemed by judge, jury, press and public to be a loathsome reptile, unfit for human society. A howl of execration would drive him from the land. Such a depth of morbid sentiment has been reached that even if a man charged with immoral relations with a wife, refuses or omits –presumably through religious or conscientious motives– to come forward and perjure himself on her behalf, an indignant press comments on his conduct, and tells him he has not acted as a gentleman.

(m) Impunity to Procure Adultery.

A wife seeking divorce and confiscation of her husband's property can exercise all her privileges of violence, insolence, and, under her recent charter, of adultery, without inconvenience, but she can in addition make him guilty as well as herself, with the trivial difference that he will be punished. A wife can get female detectives to send female seducers in her husband's path, and can then produce her hirelings in the box with conclusive proofs of the husband's and their own guilt.

If the attempt be made on the husband's side there is swift retribution. In the first place as the adultery was committed with his own connivance she is quite absolved from legal responsibility. But more follows. At this moment, such witnesses on a husband's side can be sent to prison for successful conspiracy to procure the adultery of a wire. The wife herself wins her suit.

12. IMPUNITY TO MURDER HUSBAND.

Exactly as in the case of bigamy, the law on murder and homicide are nominally the same for men as for women. But if a wife by poisoning or violence, kills her husband, the administrators of the law show in practice what can be done by twisting a text. The matter will again be referred to under the Criminal Law, but provisionally the rules may be reduced to form somewhat as follows:–

(1) The least excuse is sufficient to reduce the crime from murder to manslaughter.

(2) All the wife's statements against her husband are assumed to be true until they are proved to be false.

(3) The proof of the actual deed of crime must be much more conclusive than in the case of a man.

(4) If the verdict be a mere chance one of murder, a sympathetic judge announces he will forward to the proper quarter the sympathetic jury's recommendation to mercy. This recommendation is acted on by the Home Secretary as a matter of course in the case of a woman.

(5) If the verdict is, as it usually is, one of manslaughter, a shamefully inadequate or possibly a merely nominal sentence is imposed.

(a) Poisoning.

This peculiarly treacherous crime is a legitimate mode of self-defence if practised by a wife on her husband.

(b) Violence.

A wife is still "weak woman" when armed with a poker, a metal pot, a vitriol bottle, a petroleum can, or a revolver. If these lethal substances killed her husband it must have been by accident. In any case he had taken her "for better or worse," and had to put up with the consequences. Why did he cross her temper? Besides, even if she were ill-tempered, why did he not make a better selection when marrying? The elimination of thoughtless males is rather useful on the whole to the progress of the race.

The decisions to which this line of argument, conscious or sub-conscious, leads judges and juries, shamefully neglectful of their public trust, may be seen from the appended cases, selected haphazard from a newspaper file.

(c) Poisoning a Husband.

Mrs. Maybrick was tried at Liverpool Assizes for poisoning her husband. She read a written statement by herself (Mr. Justice Stephens ordered that she be not permitted to communicate with her lawyers before writing it) to the effect that she administered the poison to her husband at his own request. The judge and jury accepted her statement that she administered the poison, but disbelieved her statement that it was at his own request, and, wonderful to relate, she was convicted of murder, but the Home Secretary commuted her sentence; and after undergoing a few years' imprisonment she is now at large.

(d) Setting a Husband on Fire.

Mary O'Reardon, August 1st, 1894, poured oil over her husband, and deliberately set him on fire with a lighted paper. Sentenced at the Central Criminal Court to six years' penal servitude. The offence was plainly wilful murder. The man had shortly before attempted to commit suicide–being driven to the attempt by her ill-usage.

(e) Setting a Husband on Fire.

Catherine Chilton (Durham Assizes, Nov. 24th, 1894) threw a lighted lamp at her husband. Sentenced to twelve months' hard labour for manslaughter. The judge described it as a wanton and wicked act, and said it was a mercy for the prisoner that the jury had reduced the original charge to one of manslaughter.

(f) Stabbing a Husband.

Annie Hibberd, August, 1894, stabbed her husband twice, remarking, "Revenge is sweet." Found guilty of manslaughter at the Central Criminal Court, and sentenced to six years' penal servitude.

(g) Driving a Waggon over a Husband.

Jane Payne, August 18th, 1894, thrust her husband off a waggon, and then deliberately backed the horses, driving the wheels over him twice. Both legs fractured. He died a few hours afterwards. Found guilty of man-slaughter.

(h) Setting a Husband and Child on Fire.

Jane Ann Trelawney Baker (age 32) pleaded guilty to manslaughter of her husband and child by throwing a lighted lamp at the former. She was sentenced to three days' imprisonment, which meant her immediate release, and on leaving the dock remarked, amid the sympathy of the Court, that she was a childless widow, alone in the world ! ! !–Central Criminal Court, December 14th, 1893.

(i) Killing a Husband by Throwing a Knife at Him.

At the Central Criminal Court, October 24th, 1894, a married woman surrendered to answer an indictment charging her with the manslaughter of her husband. The defence was that the prisoner did not fling the knife with the intention of killing her husband. She threw the knife in a moment of great mental irritation, and it unfortunately struck the deceased. The jury could not agree to a verdict and were discharged. The case was put back until the following week for counsel in the meantime to consider if it were necessary to proceed further with the case.

Mr. Justice Wright, in allowing the prisoner out on a recognizance, told her that she need not attend unless she received notice to do so. The judge, it should be added, who throughout the trial appeared favourable to the prisoner, disallowed various questions of the prosecution as to the previous relations with the husband, and cut short the medical evidence, saying that he did not like to see the time of the Court wasted with cases such as these, or words to that effect. Of course not! Mere husband killing, alter all–what is that? In the opposite case, that of killing a wife by the husband, how often have judges been careful to point out to the jury that any unlawful assault, if death happened to result from it, was, in the eyes of the law, wilful murder!

4. Non-matrimonial Privileges of Women

As already been stated, the division of our subject into the Matrimonial, Civil, and Criminal and Non- Matrimonial Privileges of Women, although obviously convenient, necessitates some overlapping. This, however, is unavoidable, as, for many reasons, it is well to keep the promised or actual wife's privileges against her husband and others clear from those of other women. But women in general have many and serious privileges besides those affecting the matrimonial or quasi-matrimonial relations.

5. The Criminal Law

The express wording of the law–and, much more, the tacit warping of the Criminal Law in favour of women by the bias of judge, jury, and the press – has created a regular system of conferring privileges on women as against men, or against the community in general :–

1. As regards Trial.

2. As regards Sentence.

3. As regards Prison Treatment.

4. As regards Pardon.

The only exceptions to these privileges are:–

(a) If the offence has been committed by one woman against another.

(b) If the offence is by a baby farmer, committed against other women's babies. The reasons for these exceptions are, of course, obvious, and need not be dwelt upon here.

1. TRIAL AND SENTENCE.

The rules are substantially the same as those affecting wives in particular, already enumerated.

(a) The least excuse is sufficient to exonerate any woman from penal consequences.

(b) All the women's statements against a man are assumed to be true until they are proved to be false.

(c) The proof of the actual deed of crime must be much more conclusive than in the case of a man.

(d) The jury almost invariably recommends to mercy on the rare occasions when they convict.

(e) A shamefully inadequate or even a nominal sentence Is imposed.

2. LIST OF CRIMES.

The list of the wife's exemptions from punishment for crimes against her husband may nearly all be repeated as enjoyed, though possibly in a somewhat less degree, by all women (other men's wives or not) against a man, or against the community at large. (1) In cases of drunkenness this offence against the safety of the community is visited on the woman with a trifling fine. The matter is looked on rather as a joke than an offence. (2) In cases of libel and slander, a criminal prosecution against a woman is practically unknown. A nominal penalty, such as a promise not to repeat the offence, is the usual ending to such a prosecution. (3)

Crimes of assault and violence generally are almost as privileged in the case of an ordinary woman as of a wife against a husband. (4) Murder is similarly reduced to man-slaughter, no matter who the woman may be, provided the victim is a man. (5) Waylaying, injuring business, or procuring dismissal, is similarly a pastime to be indulged in by any vindictive woman with absolute impunity. (6) Perjury is similarly a perquisite of the female litigant– whether perjury of the defensive or offensive type. (7) Turning wife's evidence after seduction of husband is, of course, open to all women without punishment. (8) Conspiracy to procure the husband's seduction, as has already been stated, goes unpunished if committed on the wife's side.

The class of offences more peculiarly effected by women in general, apart from wives, are due either to revenge or a desire to extort money. Violence, culminating in murder, has been sufficiently dealt with in considering the wife's privilege. Economic motive is displayed in crimes of Fraud, Libel and Slander, Waylaying, Seduction and Perjury, to levy blackmail– though sometimes libel and slander, waylaying, and perjury are due to motives of revenge.

Sometimes the law expressly discriminates between men and women; for instance, in the case of seduction: sometimes the administrators, for instance, in the case of fraud and perjury.

(a) Fraud.

Generally speaking, fraud by a woman against a man, by which he is deprived of all or a portion of his property, is not punishable—if the woman has been in intimate relations with him; it is her payment. If she be his wife fraud on her part is unnecessary, since the law expropriates him at her least request. Other women have an impunity to commit fraud.

In case the man has not been in intimate relations, then the woman's offence is, if punished at all, visited by a tenth part of the sentence which would be inflicted if a man were the offender.

(b) Libel and Slander.

Cases are innumerable of men being sentenced to long terms of imprisonment for libel. No case is ever heard of a woman being similarly sentenced.

The following are typical cases:–

At the Essex Assizes, February 2nd, 1895, before Mr. Justice Mathew, Agnes Ellen Royce, a boarding- house keeper, pleaded guilty to demanding L 300 Dr. Edwin Worts, of Colchester, by menaces and threats. Mr. Avory, on behalf of the prisoner, stated that the letters and telegram in which she threatened the doctor were written while she was in a hysterical condition, and he suggested that she should be bound over under the First Offenders Act. Mr. C. F. Gill, who prosecuted, said that the prisoner accused the doctor of having ruined her, and made many serious allegations against him. No doubt she was labouring under very great excitement when she made these charges. She was discharged under the First Offenders Act.

"Catharine Matilda Gordon, forty-six, described as having no occupation, and living at Mardon's Croft, Moseley, near Birmingham, was charged on remand, before Mr. Newton, at Malhorough Street Police Court, on Saturday, with unlawfully and maliciously publishing a defamatory libel concerning Mr Thomas James Hooper, on March 27th last, at the Badminton

Club, Piccadilly. The accused was not legally represented. The prosecutor is a solicitor, and acts as Clerk to the Justices of the Peace at Biggleswade. Mr. William Vyse, an independent gentleman and member of the Badminton Club, living at Wickham Road, Brockley, deposed that on or about the 27th of March last he received from prisoner the postcard produced. Mrs. Gordon: 'I wish very much to apologise publicly, and to withdraw everything I have said about Mr. Hooper.' Mr. Hooper, in reply to the magistrate, said he regretted to say that he could not believe Mrs. Gordon, as he had received similar promises in writing which had been broken; in fact, since the summons, which was issued before the warrant was taken out. She had written to him enclosing a letter from her solicitors recommending her to withdraw. Mr. Newton said that a woman who sent postcards of the nature referred to did the cruellest act imaginable. The prisoner had done a most wicked act, and had endeavoured to blacken the character of the prosecutor, apparently without any reason whatever. Probably there was not a single word of truth in her statements. To the prosecutor: 'Do you think, Mr. Hooper, alter this caution, you may give her another chance?' Mr. Hooper: ' I think so, sir.' Mrs. Gordon having assured the magistrate that she would not repeat her conduct, Mr. Newton bound her over in her recognisances in the sum of £20 to be of good behaviour in the future."– *Daily Chronicle*, May 4th, 1896.

(c) Waylaying, Injuring Business, and Procuring Dismissal.

This method of extortion is practically open to all women, wives or not. Medical men are peculiarly subject to this infliction, and even solicitors do not escape. But persons in humbler station are not exempt. The case of a police constable hanged for the murder of a woman some years ago brought the practice vividly, although temporarily, before the public mind. The woman had for years waylaid him, called at the police commissioner's office, obtained the suspension of the constable, and boasted of her intention of procuring his dismissal. The man had no remedy. In a fit of passion he killed the woman, when waylaying him at midnight on his beat, and was hanged for the crime. (Case of Constable Cook, June, 1894)

(d) Murder.

The rule of the Common Law which prescribes hanging as the punishment for murder is practically abolished for females who murder men.

The best illustration of the extent of the women's privilege to murder men will be found in the consideration of the number of cases in which women have been hanged during the last quarter of a century for the offence when, by a mere chance, they were convicted. As has been stated, a woman who kills a man is usually acquitted. If she be convicted, it is almost invariably of manslaughter, not murder. If she be by some off-chance convicted of murder, an agitation for her release is usually started. So the murderess escapes the gallows, except once or twice in a quarter of a century.

(e) Seduction.

The woman's privilege of seduction is twofold–in the Criminal Courts and in the Civil Courts. In the Criminal Courts there is no punishment of an abandoned woman in society, or out of it, who corrupts the morals of a minor. Even when disease is the result, there is no case on record of a prosecution, not to speak of punishment. A contrary rule prevails in France. So far has this revolting sex privilege been pushed that a boy of 14 can he convicted for

committing an act to which he was incited by a girl just under 16, although, as is well known, a girl of that age is often a woman, while a boy of 14 is usually a child.

This, however, does not exhaust the women's privilege of seduction. Not merely a female minor, but female adults are protected by exceptional law. Any person who, by false representations, procures immoral relations with a woman not of known immoral character—though the woman be 35 and the male culprit 14—is liable to imprisonment with hard labour for two years.

All lying representations on the part of a woman are permissible, though her sole motive for procuring the connection is to obtain a hold over the man by which to blackmail him. When this statute was passed in 1887 it was said to be directed merely against criminal conspiracies of persons who, for purposes of gain, induced daughters of the people to have illicit relations with immoral rich men. A judge has thoughtfully extended the statute to the undreamt-of case of a man inducing a woman of mature age to have connection with himself – not with a third party. The whip of the blackmailer has thus been humanely turned into a whip of scorpions. (R. v. King, Monmouth Summer Assizes, 1890.)

As an instance of the utter absence of the most elementary sense of impartial justice in the men and women who "run" this pro-feminist agitation, the following may be taken:– One of the latest suggestions of this worthy crew is an enactment by which men who shall infect their wives with any venereal disease (which they may, of course, have contracted before marriage) should be made liable to severe penal consequences. Now, we make no remark on the justice or injustice per se of this proposed extension of the criminal code. But it is not proposed to make it an offence in the wife; and it comes from the very people who are loudest in bawling at the wicked violation of the rights of holy womanhood involved in the Contagious Diseases Acts, by which it is sought (not to punish women for infecting men, oh, dear, no!) but simply to prevent the spread of infection by women who make a trade of the sale of their bodies by compelling them to submit to examination, and, if necessary, medical treatment.

No cases can, of course, he cited from the records of the Criminal Courts of the adult woman's privilege of seduction, for the sufficient reason that the law does not regard it as an offence.

But the minor woman's privilege is abundantly illustrated because it is an offence for a male to allow himself to be seduced by her. One wretch was produced as witness against several boys younger than herself whom she had induced to commit the offence. The Court of Appeal held that she could not be punished, but her victims were consigned to prison. (Central Criminal Court and Court for Crown Cases Reserved, June, 1894.)

FALSE CHARGES ON OATH (EXTORTION OR REVENGE).

It is not merely wives who are privileged to make false charges on oath, and to commit and to suborn perjury. An extensive trade in such charges is pursued by an increasing number of women, encouraged by the absolute impunity which attends their profitable crimes. Revenge for slighted claims plays a real though a very minor part in the manufacture of these accusations. Potiphar's wife has no monopoly of her methods of vengeance.

These cowardly criminals know that the worst they have to fear is the charitable conclusion that they are “poor hysterical women.”

Within the last few years there has been a large growth of enactments rendering legally punishable various offences against women and girls, and the zeal of the legislature for their protection has found an echo in the energy of the courts in the conviction of the accused. It is in such cases as these that injustice is readily wrought by sex-bias. There are no charges so easy to bring and so difficult to refute as accusations of sexual crime. So well is this recognised that the most innocent man would gladly pay any sum rather than face such a charge. The only defence is the proof of a negative, always difficult and sometimes impossible, even to the most innocent. A moral and well-spent life, a high character, the esteem of friends alike wither before this blasting charge; they even add fuel to it. This is shown by the extraordinary remark of one of our judges: “A good character only means that a man has not yet been found out.”

To the intrinsic difficulty of defence presented by the very nature of the alleged offence, the poverty of the man accused often adds a terrible aggravation. The rich man can protect himself by all the resources of legal defence; the poor man is left to the mercy of the wolves by his poverty; which, although it may protect him from blackmail, yet gives him no security against malignant spite – perhaps the most fruitful source of false accusations. England, unlike continental countries, provides no legal defence for accused persons. This is serious enough in ordinary cases, but, in any trial in which a woman is concerned, it amounts to a refusal to a man of the commonest conditions of fairplay. The public prosecution of alleged offences against women devolves on the Treasury—in other words, on the skilled advocates of the Crown, with the resources of the English tax-payer at their disposal in the preparation of cases and the procuring of witnesses. The accused is left undefended, to contend alone against the prejudice of juries. Public opinion and the press, which so ably voices it, are arrayed against him. It is not, therefore, a matter for surprise that to be accused by a woman means, practically, in the vast majority of cases, to be condemned.

The necessity for careful inquiries into the character and antecedents of witnesses is nowhere so great as in cases of offences against women and girls. Charges so easy to make, so difficult to refute, ought to be regarded with the greatest suspicion, and not be accepted with ready credulity. The *bona fides* of all witnesses, the character of the accuser ought to he carefully scrutinised. To the undefended prisoner this is impossible. And even if the prisoner is defended, sentimental juries are deaf. Even where the character of the accuser is good, she may very well happen to be a woman of highly hysterical temperament. The eminent French scientist, M. Brouardel, says of this type of woman: “She is essentially a liar, that is the true criterion of the hysterical woman. Such a one has been known to keep at bay for several years law courts, doctors, her own family, with a rampart built of lies upon lies.” Accusations of sexual offences are readily forced by such women, and unless the juries can be convinced of the irresponsible character of their statements, the liberty and honour of the most innocent man may be destroyed.

That distinguished judge, the late Baron Huddleston, in his charge to the jury on one occasion, referring to the Criminal Law Amendment Acts, stated that in his opinion, after an extensive experience of the Acts, men stood far more in need of protection against women than women against men.

The total oppression inflicted by charges of sexual crime must not be measured by the cases which come into Court. It is a commonplace of the legal profession that for one such case ten are settled out of Court. In other words, a system of blackmail of the worst type finds its direct incentive and opportunity in the present state of legal administration.

The following selection of a few of the cases arising in the years 1894 and 1895 gives some idea of the widespread evils of the present system. It must not be thought for a moment that because these cases have resulted in acquittals no reform is necessary. *In view of the law of libel only cases where the accusations have failed can be cited, but every criminal lawyer knows that failure occurs in only a small minority of cases.* It must also be borne in mind that such charges entail social infamy unless triumphantly rebutted; a mere acquittal will not suffice.

1.–Dr. Patrick Lyons Blewith (West Ham) was charged with a serious assault on Bessie Page (age 16). On cross-examination she said she "did not consent, but never murmured," "too frightened." Did not even tell the other people in the outer waiting-room. Acquittal. July 8th, 1894

2.–Alfred Lee, a vestryman, was charged on remand at Bow Street, with indecent behaviour in a public thoroughfare and in the presence of three females. From the report of the officer who made enquiries it appeared that the witnesses bore very indifferent characters. Three gentlemen deposed to the high moral reputation of the accused, who was discharged. April 24th, 1895.

3.–Sarah Adams (West London) at night met R. B. Pearson in the street, and picked his pocket. When he attempted to retake the money she screamed and made "accusations" against him. She got one month. August 19th, 1894.

4.–Joseph Barker (52)," coster, was charged by his daughter Eliza (age 14) with indecently assaulting her. Medical evidence revealed no trace of assault. The prisoner denied the accusation, but was nevertheless committed for trial (Islington). April 29th, 1894. The Grand Jury threw out the bill.

5.–William Hughes and his son, colliers at Pontypridd, were accused of having violated Maggie, aged 12, daughter of the elder prisoner. The child swore she had been put up to make the charge by Ellen Haines, the prisoner's housekeeper, and the doctors found no medical evidence. The case was dismissed. April 8th, 1894.

6.–Dr. Thos. D. Griffiths, of Swansea, was accused by Mrs. Gwynne-Vaughan of committing adultery with her, also of performing upon her an illegal operation and inducing abortion. All charges proved false. April 8th and 15th, 1894

7.–Thos. Moore (44), manager to a tea merchant, was charged with disgraceful conduct to a young girl. He alleged that she began first by kissing him and poking him in the ribs. He was acquitted. May 27th, 1894.

8.–Walter Hill was charged at the Old Bailey with indecent assault by Louisa Smart, and Ellen Windram was charged with aiding and abetting him. Hill and Windram were also charged with conspiring to incite Maria Wakefield, a married woman, to commit adultery. The jury stopped the case and acquitted the prisoners. It is to be noted that Mrs. Smart was

prosecutrix about the same time in another indecent assault case, and that Ada Wakefield was prosecutrix in a similar case against her uncle which was dismissed. September, 1894. In a paper read before the Birmingham and Midland Counties Branch of the British Medical Association, on November 9th, 1893, the eminent surgeon, Dr. Lawson Tait, F.R.C.S., thus sums up a large number of cases brought under his notice by the police authorities:–
[continued next chapter].

6. Analysis of Cases

“In this way I have now reported in all upon nearly a hundred cases, and I have advised prosecution in only six, and in all of these have convictions been obtained. It has, of course, been left to the police to prosecute as they chose on my report in twenty-two cases, and they have refrained from the prosecution in all but seven cases, and of these the bills were ignored in two cases by grand juries, in four light sentences were passed summarily or at sessions for common assaults, and in one case punishment, probably well deserved, was obtained on a charge of wounding another person. In the remainder, about sixty-six, I have advised that no effort at prosecution should be entertained for a moment, and the police have acquiesced in my advice. I say, concerning the number of the last class, ‘about sixty-six,’ because a number of the cases involved charges concerning two children, so that reckoning from the number of plaintiffs there would be a larger number of cases than if the statistics were taken from a list of defendants, and one case in particular will show how curiously important this may be.”

In a further analysis he says:–

“Excluding the special groups I have already alluded to, and a few others, to be excepted for various but not important reasons, I find I am left with a list of nearly fifty, in which there was not the slightest surgical evidence of an assault of any kind having been committed; and from the fact that only in some five or six was the question of a charge on the reduced count even entertained, it must be clear that the amount of manufactured charges of this kind is most alarmingly large. In twenty-six cases there was evidence quite satisfactory that the charges were trumped up from evil motive and in twenty-one the evidence was all in favour of accidental inducements, the children having been seen to be fondled by men of suspicious appearance. The first fact that strikes one about these cases is that the average age of the first group of children was within a small fraction of twelve years, whilst the average age of the second group is only seven years. A second material fact is that whilst the second group contains a considerable proportion of children of respectable and even well-to-do people, the former group is entirely composed of children of the lowest class of the population.”

BLACKMAIL.

He further states:–

“There are at least twenty cases on my list where no assault was committed, nor could have any been, consistently with the story and the appearances found, in which blackmailing was deliberately attempted; and I regret to say in many it was successful. One of the most outrageous was a charge of completely successful assault on a girl of fifteen, alleged to have been accomplished at 11 a.m. on one of the iron spiral staircases in the Municipal Art Gallery. The complainant described the place and gave the date and hour with a precision which was remarkable, as also was her description of what took place. She described accurately the attendant, whom she charged by name. Only two things were against her – she was uninjured, and the attendance books of the institution showed conclusively that the defendant had not been at the gallery that day.”

“WANDERING SERVANTS” AND FEMALE VIGILANCE COMMITTEES.

THE following passage from his paper throws some light on the origin of many of these charges:–

“The charges in a very large proportion of cases were distinctly based on motives sometimes of the most extraordinary kind, and in the great bulk these motives were malevolent. The ‘wandering servant’ motive is one of the least harmful, and accounts for a small number. To those who do not understand the phrase I may explain that it simply means that a girl who may have been quite innocently dawdling about till past the hour of return rigidly enforced by a strict mistress, does not go home, but wanders about all night or sleeps in an outhouse. She is either found by the police or goes back home in the morning and concocts on the way a story of rape, particularised by the most minute details, not one of which is corroborated on examination, nor can the police find a scrap of evidence in support of her story. Yet she becomes the interesting prey of some Vigilance Committee, and it is more by good luck than by good guiding, as the Scotch say, that she does not pick out and name some unfortunate man for the gratification of the prurient curiosity of the fussy women who have taken up her case. In one of these cases brought to me the interesting wanderer by misfortune, selected as her victim the husband of the chairwoman of her committee, and thus trouble came upon her and the committee was dissolved.”

FORCING A MAN TO MARRY.

IN the following cases the facts are instructive as showing the use to which such charges may be put:–

“In one of the cases I regret having advised a prosecution, though technically I was quite right in doing so and bound to do it; but now I have no doubt whatever that the assault was arranged and encouraged, and but for an untimely interruption something more would have followed. The charge preferred was laid solely for the purpose of bringing an unwilling bridegroom to the altar. This effect it had, for on the prosecutrix declaring in the witness-box that if he would keep his engagement and marry her she would withdraw the charge, a sympathetic judge advised him to take the offer, which he unwillingly did under pressure of receiving a nominal sentence. The subsequent history of this couple has convinced me the whole thing was a plant on the unfortunate man.”

SPECULATIVE ATTORNEYS AND MILLINERS [TRIFLERS.]

IN some of the cases he examined the question of age was important:–

“In a very few of these cases prosecution was not advised and not undertaken by the police on the question of either real or apparent age. The wording of the Criminal Law Amendment Act is made to supply a few of the omissions of the old law concerning rape, and in raising the age under which the consent of the female participator is not recognised, the Act puts the dangerous weapon into the hands of that person of showing that she des not appear to be sixteen. This is a fertile source of blackmailing, because a girl of fifteen and a half has only to get a man to have connection with her, or to attempt it, and he is at her mercy. If he will pay up his defence is easily arranged by the speculative attorney who is always at the back door of such cases. He has only to plead that he had a discussion with the girl about her age, that he reasonably believed she was over sixteen, and a little skilful millinery displayed in the witness-box settles the release of the defendant. But if he won’t pay up then the milliner can make the prosecutrix look much under sixteen, and a heavy sentence is the result. To give an

opinion on the part of a skilled expert that a girl is or is not under fourteen, the usual molimenal age, is a matter of infinite ease compared to giving an opinion that the girl is or is not under sixteen. Maturity has been reached, and the changes at fifteen and sixteen are far less than at thirteen and fourteen, a very important fact which has been forgotten."

THE MOTIVE OF MALICE.

THE following passages show that spite is often as potent a motive in these charges as blackmail:–

"There is another and still more dangerous element in these cases, and that is the malice of persons, always women, who practically get up the cases or provoke them, and with this may be placed a few subsidiary influences which may well be classed with this. A few examples of some of them will be given in detail.

"Two children were brought to me (case 56), aged fourteen and eleven and a-half respectively, living in the same set of back houses in a well-known and fairly respectable street, the elder girl looking much older than her ascertained age. The person against whom the charge was made was the father of the older girl, and she made the charge that she found her father indecently assaulting the younger girl. She told the neighbours and the neighbours brought in the police. The younger girl proved to be quite uninjured, but it speedily came out that the elder girl was her own father's regular mistress for more than two years. The girl who was the cause of this action was one of the most virulent little minxes I ever saw, and she made no secret of her reason for splitting [ratting] on her father being the fact that she found him taking up with another girl. I have included this little wretch as one of the habitual prostitutes, but I do not believe she comes under the definition. She does afford, however, a perfect example of how the great bulk of these charges are brought about."

FEMALE REVENGE ON FATHER OR HUSBAND.

THE following shows that a similar horrible charge may be brought against an innocent man:–

"Two little wretches, of ten and twelve, who had been thrashed by their father for stealing, promptly turned round on him with a charge of having 'seduced' them both, giving here an interesting example of female revenge of the direst kind, attempted at an unusually early age. The charge had not the slightest foundation, and they admitted as much when they found they were not believed. Stepmothers give frequent examples of the same abominable attempts to punish their husbands by trumping up such charges, and in three instances mothers used even their own children as the instruments of their diabolical designs."

PREJUDICE AGAINST ACCUSED.

As to the prejudice accusations of sexual crime incite, Dr. Lawson Tait says:–

"Matters are such under this unrighteous combination that however men may laugh at it and make jokes, they do not willingly travel with single unknown female companions in railway carriages. They know very well that for a man to have the finger of a woman pointed at him with a charge of a sexual offence is to secure that man's extinction, no matter what the verdict of a jury may be. In 1881 (*Lond. Med. Gazette*) a case was tried in which a girl, to

shield herself against her equal share of guilt, charged her partner in it with the crime of rape. The jury could hardly be got to acquit the innocent man even though the prosecutrix had to admit that she never called out, her mother sleeping in the next room, because she was afraid her cries would waken the old lady."

The following indicates strongly one of the disadvantages the undefended prisoner labours under:

DANGER OF RULE ALLOWING UNDEFENDED PRISONER TO GIVE EVIDENCE.

"This new arrangement by which a defendant is allowed to go into the box and give evidence on his own behalf is most mischievous when a poor prisoner is undefended. His poverty involves ignorance, of necessity, and in the hands of a prosecuting barrister his slightest slip in cross-examination will be made to tell against him mercilessly. That is the case if he elects to be sworn. If, on the contrary, he declines, either from ignorance or fear, the jury invariably reckons the fact against him. "I sat through a case quite lately and saw a poor ignorant wretch who, being undefended, did not understand the purport of the invitation, neglected this opportunity. The judge charged clearly in his favour—indeed, there was hardly any evidence against him. But the jury brought him in guilty, and in talking the matter over with one of them after I learned that they were much impressed by the fact that he did not give evidence."

In considering the results arrived at by Dr. Lawson Tait we must bear in mind that the series of charges he analysed had all been brought under the notice of the police. The vast number of charges compromised for money, without any appeal to the police, must be added to form any fair estimate of the situation. The foregoing catalogue as regards specific crimes is striking enough, but it does not quite exhaust the criminal law privileges of women. As regards punishment, prison treatment and pardon, there are come additional immunities.

1. PRIVILEGE AS TO PUNISHMENT.

(a) Flogging.

The sacrosanct hide of female fiends must not he touched with the lash. Consequently, a wretch who tortures for years innocent children –like the Montague wild beast– must not be flogged. The female garrotter must not be flogged.

By express enactment no one but a male call he sentenced to corporal punishment.

(b) Hanging.

As has already been shown the punishment of hanging has been practically abolished for women who murder mere men. If they murder some other woman or babies of some other woman it is quite a different thing. They are, however, exempt from hangings if they murder their own babies.

(c) Duration of Imprisonment.

In every case the duration of the term of imprisonment passed on a female offender is, as everyone knows, enormously less than the punishment imposed on a man for a similar or a lesser offence.

2. PRIVILEGE AS TO PRISON TREATMENT.

(a) Flogging.

Under no circumstances can a female prisoner he flogged for breaches of prison discipline. Men and boys can be, and are, flogged like dogs for the most trivial disrespect to the governor and other officials.

(b) Less Rigid Discipline.

In one of the convict prisons a strike of female prisoners was announced against some disciplinary regulation to which they objected. The obnoxious regulation was rescinded. If they had been men they would have been flogged into submission. (Riot at Wormwood Scrubbs, 1894.)

(c) Lighter Labour.

This is quite apart from the fact that they are assigned much less toilsome forms of labour.

3. PRIVILEGE AS REGARDS PARDON.

The comparative facility with which remission or commutation of sentence on female criminals can be procured is known to every solicitor conversant with Criminal Law Procedure –not merely in cases of infanticide– but in all cases of crimes of violence, the chances of pardon are immeasurably greater than in the case of a male.

7. The Civil Law

As every litigant who has to contend with a woman knows to his cost, feminine privilege is not confined to matrimonial matters, nor to the Criminal Courts. The purse of the male is hit in the Civil Courts quite as heavily as his person in the exercise of the criminal privileges of the female sex. Anyone who has any relations, even of the most innocent character, with a woman, from a tenant or a trader who contracts with her to a casual guest at a friend's house who makes her acquaintance in a social way, may have occasion to discover that absence of intimacy does not necessarily shield him from unpleasant consequences.

The chief privileges of women in the Civil Courts are as follows (they cannot be paralleled by those of a peer or a member of the House of Commons):–

1. Freedom from Arrest for Debt if Married.
2. Property Of Married Woman Exempt from Seizure.
3. Privilege to Commit Breaches of Contract.
4. Privilege to Defraud.
5. Privilege to Seduce.
6. Privilege to Commit Adultery.
7. Privilege to Insult.
8. Privilege to Assault.
9. Privilege to Waylay.
10. Privilege to Libel and Slander.

1. FREEDOM FROM ARREST FOR DEBT.

The process of imprisonment for debt (nominally for contempt of Court in not paying an instalment of a debt) is retained in England under the Debtors Acts, 1869 and 1882. But not in the case of the married female. No married woman is to be punished for non-payment of debt, and the Court is incapable of being contemned by a married woman. This superiority to Common Law standard, for the mere male, yet again marks out the woman as a member of an inviolable noblesse. A woman can obtain goods and not be compelled to pay for them, may use all her arts of persuading the chivalrous trader– but no compulsory power of imprisonment need disturb her. This may or may not be a good rule, if applied as in certain American States, to both men and women. But when reserved to women, it is an obvious sex privilege.

2 . PROPERTY EXEMPT FROM SEIZURE.

A married woman, as already pointed out, although rolling in wealth and owning tens of thousands a year, even when separated and released from all duty to her husband and children, retains her privilege of having her property exempt from seizure for debt. Some very amusing cases—amusing that is to all except the male litigant—of rich women refusing to pay traders and solicitors will be present to the public mind. When a rich woman develops a taste for litigation, the wisdom of the legislature has found no way of protecting the defendant from ruinous costs. Even if she quarrels with her solicitor, he is powerless to protect himself against being mulcted in costs—perhaps a happy stroke of poetic justice, as

lawyers have largely created these oppressive sex-privileges of women. (See the many ramifications of the Cathcart Case.)

3. BREACH OF CONTRACT.

The absence of any compulsory power over a woman's person or a married woman's property and the bias of the courts amounts practically to a licence for her to break any contract at pleasure. This is quite apart from the peculiar privilege of women to waste a man's time and money in a pretended engagement, possibly to lure on a more wealthy lover– and to be exempt from penalty. Their privilege to commit perjury and slander with impunity plays a great part in the decision of any case in which a woman's contract is concerned. All stock brokers, insurance agents, solicitors, and bankers, and business men generally, know how hopeless, as a rule, is any prospect of getting a contract enforced against a woman. As a rule it is best to compromise or submit to injustice rather than try it out with an adversary privileged to use loaded dice.

4. PRIVILEGE TO DEFRAUD.

Precisely as in the Criminal Law, there is no real remedy against any fraud not of extraordinary magnitude and clearness of proof, perpetrated by a woman on a man.

A notorious female blackmailer brings lying accusations, suing on breach of promise of marriage, against a prominent Conservative member of Parliament. She loses her suit as she has to admit on cross-examination that she a few months previously, had extorted £5,000 from another victim of a similar suit, which was hushed up. But her victim could not get back his £5,000– and no one suggested civil or criminal process against her.

5. PRIVILEGE TO SEDUCE.

The feminine privilege of seduction extends also to the civil Courts. No civil action lies against any woman of full age or the seduction of a minor, not even if her doings be a device to entrap him by threats of scandal into marriage, and the attainment of title and fortune by her inducements to lead him astray.

The male minor in France has some protection. The consent of cooler heads is required to his marriage. In England he has no protection from the terrible consequences of succumbing to the wiles of a female seducer.

Contrast the law of England on the seduction of the female, minor or adult. Vindictive damages are to be had for the asking from the indignant jury. Legal fictions of "loss of service" by parents, are laid under requisition to prevent the operation of the maxim *"volenti non fit injuria."*

6. PRIVILEGE TO COMMIT ADULTERY.

No action, civil or criminal, lies against a woman who induces a married man to have illicit relations with her. She may succeed in stripping the man of all his fortune, blackmail him for years, break up his home, cause him to be deprived of the custody of his children, and cap the climax of her crimes by appearing as a willing witness for his wife in the Courts. No penalty awaits her.

A man who seduces or is seduced by a wife has the satisfaction of being held up to public odium as a traitorous scoundrel, and at the same time of paying enormous costs and damages —the latter being settled on the delinquent wife.

7. PRIVILEGE TO INSULT.

For some mysterious reason a woman is supposed to be incapable of insulting a man. She may use most insolent language in a public assembly, waylay him at his office, or place of business, and adopt any other method of annoyance that malignity can devise, and the law refuses to protect him, and sends him to hard labour if he is goaded into retort.

Jeremy Bentham proposed a century ago that women insulting other citizens should be punished by being exposed to public ridicule in a pillory. But we are now a long way off from the adoption of such a remedy as that.

The sturdier Englishmen of former times restrained feminine provocation to violence by the summary methods of the cucking school and the indictment at the assizes of the "common scold," not to mention the domestic discipline of the husband.

8. PRIVILEGE TO ASSAULT.

In a similar mysterious way a woman is supposed incapable of assaulting a man—at least in such a way as to deserve, not to say criminal punishment but even the exaction of pecuniary recompense. It is true that a woman with a weapon can cause grievous bodily harm. But the mere man has to put up with the consequences of such displays of feminine independence, inasmuch as the privilege holds good in civil as well as in criminal law.

9. PRIVILEGE TO WAYLAY.

In civil as well as criminal Courts this offence in women is unpunished. Let a man protect himself is the general rule on the subject. But as he is punished if he attempts to protect himself, he has simply to submit to the outrage.

10. PRIVILEGE TO LIBEL AND SLANDER.

To bring unfounded charges against any man –not against a fellow women– is now a well-established legal privilege of the fair sex. However, originally it was restrained in earlier days by legal process and domestic discipline. Exactly as in breaches of contract, it is usually wise to submit to the injustice.

But the rising wave of pro-feminist sentiment has reached a curious height of late years. A woman can accuse a man of sexual irregularities with absolute impunity. But it is not to be supposed that he is to have a like privilege. A special statute (Slander of Women Act) passed a few years ago, makes such slander of a woman actionable. But she retains her privilege of slandering a man. If this be not a statutory sex-privilege words must have lost their meaning.

The grim irony of making a man responsible for his wife's slanders, and other misdeeds– although the law has deprived him of all control over her person or property—has been already referred to.

8. The Actual Exercise of Women's Sex Privileges

The most curious of all concomitants of the legal subjection of men in England arise, first, that many men are not conscious of the real state of the law, and secondly, that a very loud-voiced minority of women, reinforced by sycophantic males, represent the law as being the apotheosis of unjust sex-privileges on the part of men.

The last phenomenon is, no doubt, in great part one cause of the first, but other causes for men's unconsciousness contribute.

A survival of the days when the physical force of the man was allowed by the State to play a part in his quarrels with women, survive in the public delusion that it is impossible for man to be oppressed by women. How can men be legally oppressed by women? Are not men, if worthy of the name, able to defend themselves? This objection, once categorically stated, is seen to be ridiculous. A legal defence is not a matter of strength or courage, but of skill. Even a skilled defence is a poor protection before a biased tribunal. But lastly, the whole question of muscular strength is absurdly and outrageously irrelevant.

The bravest and strongest man is as weak as a child before the overwhelming force of the State. Any woman can at will summon to her aid a power no man can resist. And behind this force of law rests the equally irresistible force of public opinion. All this, under the present dispensation, is arrayed against the man accused by a woman. The woman accuser wields the whole power of the Courts and the community, backed up by the press and public opinion. Her physical strength is an irrelevant matter, her real force lies in the state of public opinion before which the man becomes helpless. The power of the autocrat lies not in his physical strength, but in his ability to summon at a beck the resources of the State. The Czar of Russia is, and the Emperor Nero was, physically no stronger than the merest beggar. Catherine of Russia was physically weaker than the lowest of her grenadiers.

1. The law is not generally known by the vulgar, and lawyers, unless paid, are not usually accustomed to be expansive to the public at large on the subject of their information. Ignorance by the public of the law promotes litigation, and lawyers individually are not particularly oppressed by or frightened at the legal privileges of women. The technical skill of the lawyer and his powerful trade union usually enables him to get the best of the woman who contends with him in the law courts. Similarly, in former days, the lawyer took care to guard himself from being hurt by the feudal privileges of the noble, which weighed so heavily on the rest of the community.

2. Most women in England are still under the influence of the earlier polity of the Church and of Christendom. They do not dispute the duty of female subordination, and do not in fact as yet think of exercising the more flagrant of these new-fangled legal sex-privileges. The utmost pitch of domination that the majority have reached to is a noticeable increase in the display of overbearing manners towards their husbands, and other male dependents, and the palpable consciousness that the threat of a public scene will bring the scene-hating Englishman to his knees.

3. A large minority of women influenced by kindness and self-respect and all amiable qualities, do not exercise any of these iniquitous sex-privileges at all.

If an insignificant minority of women are oppressed by individual men, it is merely because, from any reason, economic or other, the woman does not for a considerable time, choose to go to the Police Courts. When a fact of this kind comes to be published, it is trumpeted forth in the press—the press which carefully excludes stories of male slavery—with the object of producing a false impression as to the side on which the balance of injustice is to he found.

4. The more flagrant of these privileges are in practice resorted to chiefly by the more profligate of the female sex. Happily every man does not fall a victim. But those who do find it convenient to keep concealed the story of their wrongs. Their friends might believe in their innocence, but their enemies or the public at large would not. The man injured by a woman has no sex-conscious "man's party" to appeal to. Every brawling wife and shrieking termagant or cold-blooded blackmailer has a sex-conscious propaganda ready to her hand. It is therefore all the more important to remember that these privileges conferred by the law of England on the woman against the man, are no dead letter. They are actually enforced with rigour that increases every day. Judge, jury, counsel and press vie with each other in driving the iron into the soul of the unfortunate man who is forced to contend with a woman in the law courts. Such an extreme of squalid unrighteousness has been reached that it has become a commonplace of the legal profession that no justice is to be had in the Courts against a woman—unless in some case of outrageous atrocity, and not always even then.

The origin of this singular phenomenon—a revival of barbaric gynocracy among the English-speaking people in the British Islands, America and the British Colonies is a subject of the deepest interest, but not one lending itself to cursory treatment. A photograph of the outer surface—a picture of the facts of the law is all that has been attempted here.

To confine our attention to the strictly necessary, it will suffice to remind the reader that the ordinary motives which induce the more selfish members of any privileged class to use a privilege, exist in the case of women. Many slave-owners were as indulgent as St. Clair, but many were like Legree.

The chief impelling motives appear to be:–

1. A desire for economic advantage to get money without trouble; to exploit the labour of the male slave, enthralled by the law—this works quite as well to impel a woman as well as a man to use an unjust power. It is the predatory instinct present in pirates, robbers and criminals of all classes.

2. A desire to domineer and oppress. This impulse as distinguished from ordinary revengefulness is, some think, stronger in women than in men. No one will deny its existence in both men and women, whatever be its special cause.

3. Malignity and vindictiveness. Inordinate revenge for real or fancied wrongs, disproportioned vindictiveness for the chance slights of a complex social life may be safely reckoned on to actuate the bitterer section of a female noblesse as well as a male one. If power does not corrupt, at least it gives room for corruption to spread.

Modern life among English speaking people, while releasing women from male guidance, has, by individualising women, multiplied the occasions of conflict between members of the two sexes. Different ideals and tests of action (women judge men by one standard and men judge women by another), the result of natural divergencies, as well as of education, absence of sex-illusion on the female side and its presence on the male side, add to these occasions.

4. Many women who, of their own accord, being still under the influence of the earlier policy of Christendom, would not think of exercising the force of public opinion, or the privileges of a one-sided law against their husbands or other men, are influenced to do so in various ways. The incessant clamour of a hysterical press leads them to suppose that in any quarrel with a man, the man must be wrong, the woman never can be wrong. The shrieks of the "new woman" propaganda suggest to women that in making most infamous use of her weapons she is upholding the cause of her "sisters." Furthermore the new mammon-worship which has infected all modern English life has produced among the average middle class woman an unspoken theory—that the sole duty of man is to make money for his wife.

The revolutionary theory of equality, dating from 1789–is applied only on one side, and it is assumed as an axiom that a wife is kept and has a right to do precisely as she pleases. At the same time it is taken as quite self-evident that she is emancipated from any duty of obedience or even civility to him. Added to the conclusions of the feminist spirit of domination, the final position is that the man is to submit to all insolences and outrages without redress.

This conception of the relative positions of men and women is urged in a thousand different ways on any woman who has a quarrel with her husband, and must inevitably influence the average woman.

5. Many women, themselves ignorant of the modern law, are instigated by lawyers to bring suits, relying on their iniquitous legal privileges. Not merely are men's reputations, lives and fortunes thus endangered, but in this way the present state of the law has become a powerful solvent of the historic basis of the family relations of Christendom, by encouraging disputes between wives and husbands. Sir Walter Phillimore in a recent speech has pointed out what a part is played by solicitors in the promotion of divorce suits. The essential thing, therefore, to remember is that the subjection of women in England, if it ever existed, has gone, and long gone. It is succeeded by a state of sordid subjection of the man to a biased public opinion, to a hysterical press, and to sentimental administrators of a corrupted law. There are, however, some signs that the legal subjection of men in England is not destined to live for ever. The law, after all, is the shadow of public opinion.

9. Muscular Inferiority and Sex-privilege

We must once more refer, on account of its wide-spreading popularity, to the cheap sneer by which some small but gallant wits may endeavour to turn the edge of the foregoing observations, namely, the attempt to play off the muscular inferiority of women to men as an answer to any allegation of oppression exercised on behalf of the so-called weaker sex. When looked at fairly in the face, the point in question will be seen so preposterously absurd as to be hardly worth answering. But, nevertheless, absurd as it is, it undoubtedly plays a part, half unconsciously, in the apathy of most men on the question of female privilege.

Because men are muscularly stronger than women, it is felt by many, and the feeling is supported by the class of cheap witticism above referred to, that therefore it is impossible for men to be seriously oppressed by women. A moment's reflection suffices to show that the question of muscular strength or weakness is absolutely immaterial to the issue. It would be just as reasonable to suppose that because the Czar of Russia and his high officials were less muscularly developed than the average Russian peasant, that the possibility of the Russian peasant being seriously oppressed by the Czar or his government was a proposition to be laughed at. The weakest and most frail woman, backed by the whole power of the State, may easily annihilate by the State forces summoned by her scream, a legion of Samsons or Hercules.

10. A Sex Noblesse

From all we have said, it will now be evident, one would think, to the most prejudiced reader that modern English Law, following obsequiously a deluded or apathetic stage of public opinion, has solved the problem of the division of rights and duties between the sexes, by conceding to woman all rights, and imposing on man all duties.

It would not be difficult to show, were it worth while, that even the disabilities of women in past times have been grossly exaggerated by apostles of the feminist cultus who have, of course, taken a brief to prove the wickedness of "horrid man" to the poor downtrodden female. Such disabilities as really obtained were for the most part the necessary outcome of women's position as non-combatants in a rude fighting age, and certainly did not originate, as is generally represented, in any deep-laid scheme of male devising. In return for a certain formal subjection, in some respects, they obtained not only the blessing of protection, then an important matter, but valuable privileges in other directions. An impartial student of history must admit that, however badly men have treated their fellow-men, they have always treated women with comparative generosity.

The change from feudal to modern capitalist conditions, as regards the position of women, is characterised, however, not only by, at one and the same time, the abolition of every vestige of subordination or disability, but, in addition to that, by the extension of the old compensating privileges, which were the counterpart of the former, and by the further heaping up on the top of these of new privileges, the result having finally saddled us with the institution of that sex-noblesse the leading features of which we have sketched out in the foregoing pages.

11. Socialists and Feminists

Certain Socialist writers are fond of describing the Social-Democratic State of the future as implying the "emancipation of the proletarian and the woman." As regards the latter point, however, if emancipation is taken to include domination, we have not to wait so long. The highest development of modern capitalism, as exemplified in the English-speaking countries, has placed man to all intents and purposes, legally under the heel of woman. So far as the relations of the sexes are concerned, it would be the task of Socialism to emancipate man from this position, if sex-equality be the goal aimed at. The first step on the road towards such equality would necessarily consist in the abolition of modern female privilege.

THE SUFFRAGE.

It is absurd for feminist advocates to trot out their threadbare grievance of the want of the suffrage as a serious disability in the face of all the privileges we have been discussing. It may be right, or it may he wrong, for women to have the suffrage. Respecting this we say nothing here. But, whether right or wrong, we deny that the lack of it, by an otherwise privileged class, constitutes a grievance. Electoral disqualifications are often attendant on special privilege. The Royal Family of this realm, with all their branches, are debarred from the exercise of both the passive and the active franchise. And yet no one pleads that, say, the prince of Wales, is, in consequence, a cruelly oppressed personage. Similarly the clergy of the Established Church are debarred at least from the passive franchise (i.e., they may not sit in Parliament), and yet we have never heard it contended that on this account they are a solely hard-done-by section of the community. Where women have parliament, law courts, police magistrates, judges as their obsequious humble servants, what more could they expect to obtain, even if they had the suffrage?

12. “The Oppressed Woman”

As regards the occasional cases of the ill-treatment of women by men, especially wife assaults and such like, these may be traced largely to the infamous state of the law we have described. Where the law practically refuses justice to one section of the community against another, it is only “human nature” (if we may employ that much-abused phrase) that occasionally members of the section to which justice is refused should be found to take the matter into their own hands, and attempt to redress the balance, by acts, amounting sometimes to brutality.

It were surely more reasonable, rather than to expend indignation and ferocity on the individual offender, to seek out and remedy the underlying cause of the offence. Give men reasonable justice as against women, cease to trample underfoot every principle of equity and fair play at the behest of feminine shrieks, and the excuse, or at least, palliation which now undoubtedly for any sporadic brutality on the part of men, and especially husbands, of which women may be the victims, would be done away with. Whilst the law remains as it is, women deserve scant pity if they do on rare occasions get the worst of it in their dealings with men.

In the foregoing pages we have set forth the respective legal position of the sexes as it now stands. Our aim in doing so has been, by spreading knowledge of the facts of the case, to prevent uninformed though otherwise fair-minded persons from falling a prey to the maudlin rant of demagogic charlatans (male and female), ignorant of law and as destitute of the capacity of independent judgment on any subject as they are of any impartial sense of justice, who so frequently deliver themselves in press and on platform on the subject the “wrongs of woman.”